

**TOWN OF SOUTH BETHANY**  
**BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES**

**Friday, August 5, 2022, 1:00 p.m.**

**This meeting/hearing was also conducted electronically.**

PRESENT: Chairman Steve Bunoski; Charlene Sturbitts; Al Rae; and Barrett Edwards  
TOWN STAFF: Joe Hinks, Code Enforcement Officer; and Matt Amerling, Town Clerk  
APPLICANT: **William & Patricia Peltier**, 18 Peterson Drive, Lot 72  
ATTENDANCE: Patricia Peltier; Edward & Diann Nazarian, 20 Peterson Drive; Tim Saxton, 24 Peterson Drive; Terry Weaver, applicant's contractor  
ABSENT: BOA Members Martha Fields and Jimmy Oliver

Chairman Bunoski called the Meeting to order at 1:00 p.m. All parties were sworn in who requested testimony during the hearing.

PURSUANT TO 22 DEL.C. SECTION 327 (a) AND ARTICLE XI, SECTIONS 145-38(A)(2), TWENTY-FIVE (25) FT rear yard setback requirements & 145-38(A)(3), EIGHT (8) FT side yard setback requirements of the Code of South Bethany. The Board of Adjustment will hold a Public Hearing to consider the homeowner's request for a variance of encroachment three feet, eight inches (3'8") into the rear yard setback, and seven inches (7") into the side yard setback.

Town Clerk Matt Amerling stated the public hearing notice for this meeting was posted on the property (18 Peterson Drive) on July 1, 2022; the notice was published in the *Coastal Point* newspaper on July 1, 2022; it was posted at Town Hall and on four (4) other locations within Town on July 1, 2022; and was sent via certified mail to the property owner and owners of property within a radius of two-hundred (200) feet of the property on June 29, 2022.

Town Code Enforcement Constable Joseph Hinks stated the applicants were seeking to elevate the house and it was discovered that certain setback encroachments existed on the property, which necessitated the variance application. Mr. Hinks stated the property owners were requesting a variance of encroachment three feet, eight inches (3'8") into the rear yard setback and seven inches (7") into the left side yard setback; and there was no desire to increase the footprint of the house, but rather to raise the house as it currently exists. Mr. Hinks stated the encroachments have been in place at least twenty (20) years – as long as the applicants have owned the property.

Mr. Terry Weaver, contractor for the applicants, stated the house was built in 1985, and the addition was built in 1994. He testified that the footprint of the building would not change. The building would just be elevated. Removing the bay window would not obviate the need for the variance because the foundation of the building is situated two feet into the setback area. These variances would allow the elevation of the Property above the floodplain, which would help for safety purposes. He testified that elevating the house would result in increased stairways, which make it difficult to change the footprint of the building to minimize the variances being requested. He testified that if the variances were not granted, they would have to dismantle the house to entirely eliminate the encroachments. Shifting the footprint of the building would not completely eliminate the variances, and keeping the existing footprint, if the variances were granted, would save a tree on the Property. He noted there is a shed on the Property encroaching into the setbacks that is going to be removed and incorporated under the house when it is elevated.

Ms. Patricia Peltier, of 18 Peterson Drive, stated the house was built in 1985, in 1994, an addition was put onto the back of the house, and the Peltiers purchased the home in 1997. The Peltiers were paying about fifty-thousand dollars (\$50,000.00) to elevate the house. Ms. Peltier stated she was unable to get records

from the Town regarding the additions but they discovered the setback issues in a survey they commissioned in 2020. She stated again they were not trying to encroach any further into the setbacks; they just wanted to elevate the house, and they had nothing to do with the original construction that encroached into the setbacks. The BOA application and accompanying exhibits were entered into the record as Exhibit A. A letter in support of the request was entered into the record as Exhibit B.

The Board finds the applicant has met the standards necessary to demonstrate that an exceptional practical difficulty exists to warrant granting variances of seven inches (7") from the southern side yard setback and three feet, eight inches (3'8") from the rear yard setback to allow existing encroachments to remain, which will allow for the elevation of the structure situated on the Property. The Board finds that special conditions or exceptional situations exist given the fact that the conditions were not the fault of the Applicant and that the conditions impede the ability of the Applicant to elevate the structure to protect against flood damage. The Board finds that the encroachments and requested variances are minimal and the request is reasonable. A literal interpretation and application of the Zoning Code would cause detriment to the Applicants. Forcing the Applicants to renovate the Property to eliminate the variances, in addition to the expense being incurred to elevate the dwelling on the Property, would create an exceptional practical difficulty.

Chairman Bunoski motioned to grant the variance as requested. BOA Member Charlene Sturbitts seconded the motion. Motion carried 3-0.

The hearing was adjourned at 1:42 p.m.

Exhibit A	Variance application package including public hearing notice
Exhibit B	Correspondence from residents in favor of variance